

Szelag, Matthew

From: Szelag, Matthew
Sent: Tuesday, July 14, 2015 9:37 AM
To: Edgell, Joe; Szalay, Endre; Ford, Peter
Cc: Fleisig, Erica; Schroer, Lee; Fabiano, Claudia; Buffo, Corey; Castanon, Lisa; Chung, Angela
Subject: RE: Federal Water Quality Coalition Letter to EPA re Human Health Standards

Thanks for your thoughts everyone. I agree that it makes sense to refer Cheryl to our comment letter and the Maine documents. I know she's read through these items carefully but it's a good idea to direct her to the specific areas you pointed out. I'm sure she'll also be interested if we respond to the letter from the Federal Water Quality Coalition.

I think that is sufficient for our initial response on this. Thanks for the assistance.

Matthew Szelag | Water Quality Standards Coordinator
U.S. Environmental Protection Agency | Region 10
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From: Edgell, Joe
Sent: Tuesday, July 14, 2015 9:28 AM
To: Szalay, Endre; Ford, Peter; Szelag, Matthew
Cc: Fleisig, Erica; Schroer, Lee; Fabiano, Claudia; Buffo, Corey; Castanon, Lisa
Subject: RE: Federal Water Quality Coalition Letter to EPA re Human Health Standards

Exemptions [5] Attorney Client PrivilegeExemptions [5] Attorney Client Privilege
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Joe

From: Szalay, Endre
Sent: Tuesday, July 14, 2015 11:47 AM
To: Ford, Peter; Szelag, Matthew
Cc: Fleisig, Erica; Schroer, Lee; Fabiano, Claudia; Buffo, Corey; Edgell, Joe; Castanon, Lisa
Subject: RE: Federal Water Quality Coalition Letter to EPA re Human Health Standards

Thanks, Pete. I agree. Refer her to the relevant sections in our March 23 comments. Exemptions [5] Attorney Client Privilege

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Exemptions [5] Attorney Client PrivilegeAlong those lines, you could refer Cheryl to our disapproval in Maine and associated documents. For example, the January 30 letter from DOI to Avi re WQS and tribal fishing rights (attached). Pages 7-10 discuss the legal basis for concluding that tribal fishing rights include the right to sufficient water quality.

Endre Szalay
US EPA Region 10
206-553-1073

From: Ford, Peter
Sent: Tuesday, July 14, 2015 5:52 AM
To: Szelag, Matthew; Szalay, Endre
Cc: Fleisig, Erica; Schroer, Lee; Fabiano, Claudia; Buffo, Corey; Edgell, Joe
Subject: RE: Federal Water Quality Coalition Letter to EPA re Human Health Standards

We sort of spelled out the answer to her question re CRL on p. 5 of our Mar 23 comment letter when we said: "Here, the state has not demonstrated how its use of a CRL of 10-5 would result in WQC that adequately protect tribal fish consumers as the target general population as opposed to a highly exposed subpopulation within the broader general population in WA. For example, the CRL for tribal members whose consumption is not suppressed (i.e., greater than 175 g/day), would very likely be higher than 10-5." Exemptions [5] Attorney Client Privilege

Exemptions [5] Attorney Client Privilege "It should also be noted that the 2000 HH Meth did not consider how CWA decisions should account for applicable treaty-reserved fishing rights, and the treaties themselves may require higher levels of protection." Exemptions [5] Attorney Client Privilege

Exemptions [5] Attorney Client Privilege Exemptions [5] Attorney Client Privilege "Therefore, the EPA supports the state's decision to derive the HHC using a FCR of 175 g/day so long as the state also retains a CRL of 10-6, which the tribes have generally viewed as a compromise minimum value in tribal consultation." Exemptions [5] Attorney Client Privilege

Exemptions [5] Attorney Client Privilege Exemptions [5] Attorney Client Privilege Exemptions [5] Attorney Client Privilege

Exemptions [5] Attorney Client Privilege You could direct her to these sentences if OW and R10 ok with doing that.

I'm adding others (Lee, Joe, Claudia, Corey) so they're in the loop.

Peter Z. Ford
U.S. EPA Office of General Counsel
202.564.5593

From: Szelag, Matthew
Sent: Monday, July 13, 2015 6:59 PM
To: Ford, Peter; Szalay, Endre
Cc: Fleisig, Erica
Subject: FW: Federal Water Quality Coalition Letter to EPA re Human Health Standards

Hi Pete and Endre,

Any thoughts on how to respond to Cheryl? I'm planning to give her a call tomorrow morning. Exemptions [5] Attorney Client Privilege

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Let me know if you have any additional thoughts. Thanks,

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From: Niemi, Cheryl (ECY) [<mailto:cnie461@ECY.WA.GOV>]
Sent: Monday, July 13, 2015 12:43 PM
To: Szelag, Matthew
Subject: FW: Federal Water Quality Coalition Letter to EPA re Human Health Standards

Hi Matt. Just saw this letter today.

Does EPA have an OGC or other legal opinion or rationale on how risk level and treaty tribal rights are connected, and why 10-6 is looked upon by EPA as fulfilling the rights, and 10-5 is not? Could you send me a copy of the opinion/rationale document?

Thanks,

Cheryl

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Note: This e-mail may be subject to public disclosure.

From: Johnson, Ken [<mailto:ken.johnson@weyerhaeuser.com>]
Sent: Friday, July 10, 2015 1:27 PM
To: Susewind, Kelly (ECY); Gildersleeve, Melissa (ECY); Niemi, Cheryl (ECY)
Subject: Federal Water Quality Coalition Letter to EPA re Human Health Standards

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